IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

APPEAL FROM ORDER NO.1135 OF 2005

WITH

CIVIL APPLICATION NO.1406 OF 2005

Capt.Ritesh Vijay Mathankar ...Appellant.

Vs.

State Bank of India & Ors. ...Respondents.

.....

Mr.R.V.Govilkar for the Appellant.

Mr.Vishwajeet Sawant for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

December 22, 2005.

P.C. :

An unconditional Bank Guarantee was issued by the First Respondent for and at the behest of the Appellant. The First Respondent agreed and undertook to pay Air Deccan, the Third Respondent herein, an amount upto Rs.23.50 lakhs upon demand absolutely and unconditionally and without demour. The Bank Guarantee contained all the usual clauses of an unconditional and irrevocable Bank Guarantee.

The contention of the First Respondent is that the Appellant left its services without notice and that it is entitled to invoke the Bank Guarantee. The guarantee has been provided in consideration of the lending Bank having agreed to provide financial assistance to the tune of Rs.23.50 lakhs for funding training expenses and for Air Deccan agreeing to employ the Appellant as a Co-pilot in its services. The lending Bank had agreed to pay such amounts as may be determined towards damages and reimbursement of the expenses incurred on training that may be suffered or incurred by Air Deccan by reason of the default committed by the Appellant as a co-pilot in observing or performing his duties and obligations. No case of fraud or irretrivable injustice is made out. The Learned Trial Judge in the circumstances, was justified in declining an order of interim relief and vacating the order of status quo granted earlier. There is no merit in the appeal which is accordingly dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.